

Senate Bill No. 863

CHAPTER 722

An act to amend Sections 16142, 16142.1, and 51244 of, to add Section 16148 to, and to add and repeal Section 51244.3 of, the Government Code, and to add Sections 33333.14 and 33691.5 to the Health and Safety Code, relating to local government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 19, 2010. Filed with
Secretary of State October 19, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 863, Committee on Budget and Fiscal Review. Local government.

(1) Existing law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts.

This bill would, beginning January 1, 2011, and until January 1, 2015, authorize a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue are less than $\frac{1}{2}$ of the participating county's actual foregone general fund property tax revenue, to revise the term for newly renewed and new contracts and require the assessor to value the property, as specified, based on the revised contract term. The bill would provide that a landowner may choose to nonrenew and begin the cancellation process. The bill would also provide that any increased revenues generated by properties under a new contract shall be paid to the county. This bill would appropriate \$10,000,000 from the General Fund to the Controller for the 2010–11 fiscal year to make subvention payments to counties, as specified.

The bill would provide, in the event that this bill is enacted, that the provisions of Chapter 391 of the Statutes of 2010 not become effective.

(2) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight in those communities. Existing law requires each agency to prepare, or cause to be prepared, and approve a redevelopment plan for each project area. Existing law requires that a redevelopment plan contain specified limitations, including, but not limited to, a limitation on the number of dollars of taxes that may be divided and allocated to a redevelopment agency.

This bill would, notwithstanding specified provisions, eliminate the tax increment limit for the redevelopment plan for the Centre City

Redevelopment Project, including, but not limited to, the original project area, the expanded project area, and the merged project area.

(3) The Community Redevelopment Law also requires a redevelopment agency to use at least 20% of tax increments generated from a project area to increase and improve the community's supply of low- and moderate-income housing, and those funds to be held in a separate Low and Moderate Income Housing Fund until used. That law authorizes a redevelopment agency, from July 1, 2009, to June 30, 2010, inclusive, to suspend all or part of its required allocation to its Low and Moderate Income Housing Fund, but requires the redevelopment agency to repay the revenue diverted during the suspension within a specified time period, ending as of June 30, 2015. That law requires redevelopment agencies in this state to make a specified remittance to county Supplemental Educational Revenue Augmentation Funds for the 2009–10 fiscal year and another remittance to those funds for the 2010–11 fiscal year. That law subjects a redevelopment agency that does not make either or both of the required remittances to specified prohibitions and the requirement that it allocate an additional 5% of all tax increments it receives for low- and moderate-income housing for the remainder of the time it receives them.

This bill would exempt a redevelopment agency that fails to allocate either or both of the required remittances, or to otherwise arrange for their full payment, as specified, from those prohibitions and the above-described requirement, if the county auditor certifies to the Department of Finance that (1) the redevelopment agency adopted a specified resolution, or specified resolutions, and failed to make the associated remittance by May 10, 2010, or May 10, 2011, as applicable, (2) the county reduced the tax increment revenue payable to the redevelopment agency by at least 20% in the 2009–10 fiscal year, and (3) the redevelopment agency has entered into a specified agreement with the Department of Finance with respect to paying the required remittances.

(4) This bill would make legislative findings and declarations as to the necessity of a special statute for the Centre City Redevelopment Project of the City of San Diego.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) A number of historical, educational, and cultural resources of regional and statewide significance are located within and adjacent to the Centre City Redevelopment Project of the City of San Diego.

(b) Significant portions of the project area of the Centre City Redevelopment Project are owned by state, local, and nonprofit entities and

produce no property tax revenue for any taxing entity. This act will provide a unique opportunity for revitalization and investment in the area without adverse fiscal impact to the state.

(c) The preservation and feasible reuse of the historical, educational, and cultural resources of regional and statewide significance and the completion of a number of major public infrastructure improvements are essential to eliminate blight and improve the economic health of the neighborhoods which surround and are located within the Centre City Redevelopment Project.

(d) It is the intent of the Legislature to permit the financing of this preservation and reuse project and the construction of major public infrastructure and of related private development improvements to feasibly occur by providing necessary public financing that utilizes tax increment revenues, thereby creating the means to attract and induce the necessary private investment of capital.

(e) Every dollar of tax increment expended for the Centre City Redevelopment Project has resulted in the investment of a significant multiple of dollars by private enterprise and the creation of thousands of construction and permanent new jobs.

(f) The completion of major public infrastructure improvements made possible by the immediate increase in bonding capacity resulting from this act will be accomplished in a coordinated manner as part of the implementation of the Centre City Redevelopment Project and will relieve other state and local governmental agencies from the responsibility of providing or funding those infrastructure improvements and allow them to focus their limited resources on other urgent projects.

SEC. 2. Section 16142 of the Government Code is amended to read:

16142. (a) The Secretary of the Natural Resources Agency shall direct the Controller to pay annually out of the funds appropriated by Section 16140, to each eligible county, city, or city and county, the following amounts for each acre of land within its regulatory jurisdiction that is assessed pursuant to Section 423, 423.3, 423.4, or 423.5, or 426 if it was previously assessed under Section 423.4, of the Revenue and Taxation Code:

(1) Five dollars (\$5) for prime agricultural land, as defined in Section 51201.

(2) One dollar (\$1) for all land, other than prime agricultural land, which is devoted to open-space uses of statewide significance, as defined in Section 16143.

(b) The amount per acre in paragraph (1) of subdivision (a) may be increased by the Secretary of the Natural Resources Agency to a figure which would offset any savings due to a more restrictive determination by the secretary as to what land is devoted to open-space use of statewide significance.

(c) The amount per acre in subdivision (a) shall only be paid for 10 years from the date that the land was first assessed pursuant to Section 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code.

(d) Notwithstanding any other provision of law, for the 2008–09 fiscal year and each fiscal year thereafter, the Controller shall reduce, by 10 percent, any payment made pursuant to this section.

(e) (1) Effective January 1, 2011, if the payment pursuant to this section for the previous fiscal year is less than one-half of the participating county's actual foregone general fund property tax revenue, the county may make a determination to implement subdivision (b) of Section 51244 and Section 51244.3. The implementation of these sections shall be suspended for any subsequent fiscal year in which the payment for the previous fiscal year exceeds one-half of the foregone general fund property tax revenue.

For purposes of this subdivision, a county's actual foregone property tax revenue shall be based on the county's respective share of the general property tax dollars as reflected in the most recent annual report issued by the State Board of Equalization or 20 percent, whichever is higher.

(2) This subdivision shall remain operative only until January 1, 2015.

SEC. 3. Section 16142.1 of the Government Code is amended to read:

16142.1. (a) In lieu of the payments made pursuant to Section 16142, in a county that has adopted farmland security zones pursuant to Section 51296, the Secretary of the Natural Resources Agency shall direct the Controller to pay annually out of the funds appropriated by Section 16140, to each eligible county, city, or city and county, the following amount for each acre of land within its regulatory jurisdiction that is assessed pursuant to Section 423.4 or 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code:

Eight dollars (\$8) for land that is within, or within three miles of the boundaries of the sphere of influence of, each incorporated city.

(b) The amount per acre in subdivision (a) shall only be paid for 10 years from the date that the land was first assessed pursuant to Section 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code. The appropriation authorized by this subdivision shall not exceed one hundred thousand dollars (\$100,000) per year until 2005.

(c) Notwithstanding any other provision of law, for the 2008–09 fiscal year and each fiscal year thereafter, the Controller shall reduce, by 10 percent, any payments made pursuant to this section.

(d) (1) Effective January 1, 2011, if the payment pursuant to this section for the previous fiscal year is less than one-half of the participating county's actual foregone general fund property tax revenue, the county may make a determination to implement subdivision (b) of Section 51244 and Section 51244.3. The implementation of these sections shall be suspended for any subsequent fiscal year in which the payment for the previous fiscal year exceeds one-half of the foregone general fund property tax revenue.

For purposes of this subdivision, a county's actual foregone property tax revenue shall be based on the county's respective share of the general property tax dollars as reflected in the most recent annual report issued by the State Board of Equalization or 20 percent, whichever is higher.

(2) This subdivision shall remain operative only until January 1, 2015.

SEC. 4. Section 16148 is added to the Government Code, to read:

16148. Ten million dollars (\$10,000,000) is appropriated for the 2010–11 fiscal year from the General Fund to the Controller to make subvention payments to counties pursuant to Section 16140 in proportion to the losses incurred by those counties by reason of the reduction of assessed property taxes.

SEC. 5. Section 51244 of the Government Code is amended to read:

51244. (a) Each contract shall be for an initial term of no less than 10 years. Each contract shall provide that on the anniversary date of the contract or such other annual date as specified by the contract a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Section 51245.

(b) (1) If the county makes a determination pursuant to subdivision (e) of Section 16142 or subdivision (d) of Section 16142.1, contracts shall be for a term of no less than nine years for contracts currently 10 years in length or 18 years for contracts currently 20 years in length, as the case may be. For new contracts entered into during a year in which this subdivision is in effect, the initial contract length shall be either 9 or 18 years. Each contract shall provide, except in the initial year of the determination, that on the anniversary date of the contract or such other annual date as specified by the contract, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Section 51245.

In any subsequent year during the reduced term of contract in which increased revenue is not realized by the county pursuant to Section 51244.3, two or three additional years shall be added to the contract on the next anniversary date, as necessary, to restore the contract to its full 10-year or 20-year contract length.

(2) In any year in which this subdivision is implemented, the county shall record a notice that states the affected parcel number or numbers and current owner's names, or, alternatively, the same information for those parcels that are not affected.

(3) An addition to the assessed value shall be conveyed to the auditor, consistent with the 10-percent reduction in the length of the restriction, equal to 10 percent of the difference between the valuation pursuant to Section 423, 423.3, or 423.5 of the Revenue and Taxation Code, as applicable, and the valuation under subdivision (b) of Section 51 or Section 110.1 of the Revenue and Taxation Code whichever is lower. If the valuation under subdivision (b) of Section 51 or Section 110.1 of the Revenue and Taxation Code is lower, the addition to the assessed value shall be zero. The increased amount of tax revenue that results from the decrease in restriction shall be separately displayed on the taxpayer's annual bill.

(4) A landowner may elect to serve notice of nonrenewal instead of accepting a 9-year or 18-year contract, as the case may be. In that case, the additional assessed value shall not be added to the property as provided for in paragraph (3).

For purposes of this subdivision, a landowner may serve notice of nonrenewal at any time. However, a landowner who withdraws that notice prior to the effective date shall be subject to term modification and additional

assessed value. Once served and effective, a landowner nonrenewal notice may not be withdrawn except for cause and with the consent of the county. A county may adopt amendments to its uniform rules to facilitate implementation of this subdivision during the 2010–11 fiscal year, and thereafter as necessary.

(5) In addition to any other notice requirements, a county shall provide a landowner under contract with timely written notice of all of the following:

(A) Any initial hearing by the county on a proposal to adopt or rescind the implementation of this subdivision.

(B) Any final decision regarding the adoption or rescission of implementation of this subdivision.

(C) The landowner's right to prevent the reduction in the term of his or her contract pursuant to this subdivision by serving notice of nonrenewal as specified by Section 51245. This nonrenewal notice may be combined with the nonrenewal notice in subparagraph (B).

(6) A county shall not modify or revalue a landowner's contract pursuant to this subdivision unless the landowner is given at least 90 days' notice of the opportunity to prevent the modification and revaluation by serving notice of nonrenewal and the landowner fails to serve notice of nonrenewal. The county may use the primary owner of record from the assessment roll to identify landowners entitled to receive notice under this subdivision. A landowner shall be advised of the landowner's right to avoid continued imposition of this subdivision in any future year and thereafter by serving a notice of nonrenewal for that contract year. Failure of the landowner to serve timely notice of nonrenewal in any year shall be considered implied consent to the implementation of this subdivision for that year.

Until February 1, 2011, the 90-day notice requirement may be reduced to 60 days if the county adopts a procedure to allow landowners to serve a notice of nonrenewal.

(7) This subdivision shall not apply to any of the following:

(A) Contracts that have been nonrenewed.

(B) Contracts with cities.

(C) Open-space or agricultural easements.

(D) Scenic restrictions.

(E) Wildlife habitat contracts.

(F) Atypical term contracts, including, but not limited to, 20-year initial term contracts declining to 10 years, or reencumbrances pursuant to Section 51295, if the county's board of supervisors determines the application of this subdivision to them would be inequitable or administratively infeasible.

(8) This subdivision shall remain operative only until January 1, 2015.

SEC. 6. Section 51244.3 is added to the Government Code, to read:

51244.3. (a) This section shall apply to properties under a 9-year or 18-year contract, as the case may be, pursuant to subdivision (b) of Section 51244. Notwithstanding any other provision to the contrary, increased revenues generated by those properties shall be allocated exclusively to the respective counties in which those properties are located.

(b) This section shall only apply if the county makes a determination pursuant to either Section 16142 or Section 16142.1.

(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 7. Section 33333.14 is added to the Health and Safety Code, to read:

33333.14. (a) The Legislature hereby finds and declares that the Redevelopment Agency of the City of San Diego's Redevelopment Plan for the Centre City Redevelopment Project, as approved and adopted on May 11, 1992, by the City Council of the City of San Diego by Ordinance No. 0-17767, as amended, contains an unrealistically low dollar limit on the receipt of tax increment. The Legislature further finds and declares that this limit severely restricts the ability of the Redevelopment Agency of the City of San Diego to address conditions of blight which remain within its Centre City Redevelopment Project.

(b) Notwithstanding any other law to the contrary or any redevelopment plan previously adopted by the City of San Diego, commencing on the effective date of this section and in each fiscal year thereafter until the expiration of the time limit on the receipt of taxes and repayment of indebtedness set forth in the redevelopment plan adopted by the City of San Diego for its Centre City Redevelopment Project pursuant to subdivision (b) of Section 33333.6 and other applicable statutes, the dollar limit on the receipt of tax increment for the Centre City Redevelopment Project is eliminated, and the Redevelopment Agency of the City of San Diego may receive tax increment revenue from the Centre City Redevelopment Project without a dollar limit.

SEC. 8. Section 33691.5 is added to the Health and Safety Code, to read:

33691.5. (a) A redevelopment agency that fails to allocate to the county auditor either or both of the full remittances required pursuant to subdivision (a) of Section 33690 or subdivision (a) of Section 33690.5, respectively, or that fails to arrange for full payment of either or both of those remittances pursuant to subdivision (c) of Section 33688, subdivision (d) of Section 33691, or Section 33692, shall be exempt from the prohibitions set forth in subdivision (e) of Section 33691 and the requirement set forth in paragraph (4) of subdivision (k) of Section 33334.2, if the county auditor certifies to the Department of Finance that all of the following conditions have been met:

(1) The agency adopted the resolution described in paragraph (1) or paragraph (2) of subdivision (c) of Section 33691, and failed to make the full remittance by May 10, 2010, or May 10, 2011, as applicable, pursuant to Section 33692.

(2) The county reduced the tax increment revenue payable to the agency by at least 20 percent in the 2009–10 fiscal year.

(3) The agency has entered into an agreement with the Department of Finance, as described in subdivision (d) of Section 33691, with respect to either or both of the full remittances, and that agreement (A) commits the

agency to paying the remaining amount due to satisfy either or both of the full remittances over a time period of no more than the earlier of 30 years or the life of the redevelopment agency and (B) requires the first payment towards that obligation to be due to the county on or before May 10, 2011, without regard to whether that payment is for the full remittance for the 2009–10 fiscal year, 2010–11 fiscal year, or both.

(b) An agency that is making payments as described in paragraph (3) of subdivision (a) may use all legally available funds to make those payments, and may pay off the outstanding balance of either or both of those full remittances at any time.

SEC. 9. (a) If this act is enacted by the Legislature in the 2009–10 Regular Session, Chapter 391 of the Statutes of 2010 shall not become effective.

(b) It is the Legislature’s intent to make the options in Sections 2, 3, 5, and 6 of this act available, but not required, for use by counties and landowners for the 2010–11 fiscal year, if feasible, and no later than the 2011–12 fiscal year.

SEC. 10. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances facing the Centre City Redevelopment Project of the City of San Diego.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To support state and local governments during the current economic crisis, it is necessary that this bill go into immediate effect.